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O.R. San Diego County  
 9/24/82 Doc # 82-295885

## GRANT OF EASEMENT

THIS INDENTURE, made the 19<sup>th</sup> day of July 1982, between the United States of America, herein called the Government, acting through the Department of the Navy, represented by the Commanding Officer, Western Division, Naval Facilities Engineering Command, San Bruno, California, and the City of San Diego, herein called the Grantee:

WHEREAS, the Government owns that certain real property identified as the Naval Air Station, Miramar, California, herein called the Station, and

WHEREAS, the Grantee requires the use of certain land at the Station for a sanitary landfill, and has requested an easement for the operation and maintenance of a sanitary landfill on, in, over, and under that portion of the Station hereinafter described, and

WHEREAS, the Grantee desires to convey fee title to approximately 60.85 acres of land hereinafter described, as partial consideration for this grant of easement, and

WHEREAS, authority to accept fee title to approximately 60.85 acres has been approved by Public Law 94-107, and

WHEREAS, the Secretary of the Navy has found that this grant of easement is compatible with the military mission of the Station and the public interest;

NOW THEREFORE, this indenture witnesseth that, in partial consideration of the conveyance by Grantee to the Government of fee simple title to the land described in Exhibit "A" and shown on Exhibit "B" (E.F.D. Drawing No. A-102300), both attached hereto and made a part hereof, the Government hereby grants to Grantee and its assigns, for a term of twenty-five (25) years commencing 27 July 1982, and ending 26 July 2007, an easement for the operation and maintenance of a sanitary landfill on, in, over, and under the land legally described in Exhibit "C" and shown on Exhibit "D" (E.F.D. Drawing Nos. C-102481, C-102482, C-102483), both attached hereto and made a part hereof.

THIS EASEMENT is granted upon the following terms and conditions, acceptance of which is acknowledged by execution by the City of San Diego:

1. Grantee shall permit all Department of the Navy Stations and/or Activities located within or near the boundaries of the City of San Diego to dispose of wastes in the sanitary landfill at no cost to the Government for the term of this easement. This waiver of fees shall not apply to other solid waste disposal facilities operated by the City of San Diego.

2. The only wastes which will be permitted to be accepted at the sanitary landfill are Group II wastes as so defined by the State of California Solid Waste Management Board.

DOCUMENT NO. R-256573-3

ILED JUN 14 1982  
 OFFICE OF THE CITY CLERK  
 SAN DIEGO, CALIFORNIA

EXHIBIT "B"  
 TO RELEASE

Doc. 02-0567 P/A

Code ..... File .....

Encl Atty Cn Opinion of FEB 15 1983  
 Micro F&3-MU-1 To NAVFAC

EXHIBIT B

3. The Government owns and reserves all rights to recover methane gases produced from the completed landfill areas. Recovery will be coordinated with ongoing landfill operations.

4. Grantee shall:

a. Prepare a Sanitary Landfill Master Plan for the Land described in Exhibit "C".

b. Submit a revegetation plan to the Commanding Officer, Western Division, Naval Facilities Engineering Command for his review and approval. The revegetation plan may be updated and/or amended subject to the review and approval of the Commanding Officer, Naval Air Station, Miramar. If revegetation is deemed by the Government to be inadequate, particularly in terms of preventing soil erosion, the Grantee may be required to perform corrective measures including repeating the soil preparation and reseeding.

c. Provide an environmental fence acceptable to the Navy within the landfill area to protect two major vernal pool areas from vehicular and pedestrian traffic.

d. Transplant individuals of the barrel cactus (Ferocactus viridescens), that will otherwise be lost as a result of the landfill project.

e. Establish a 50 foot wide "buffer" zone over the Navy fuel pipeline as shown on Exhibit "D". In this buffer zone, no structures shall be installed, no heavy equipment allowed, no subsurface excavations made, and no refuse deposited without the written permission of the Station.

f. Provide and maintain, in conformance with the Sanitary Landfill Master Plan, adequate drainage facilities to handle surface runoff water, prevent ponding of water and erosion upon the landfill and upon adjacent property. Grantee shall undertake any necessary controls to prevent leachate.

g. Protect and safeguard water wells 23 P 1 and 23 P 2 located in San Clemente Canyon and shown on Exhibit "D".

h. Be permitted to earth fill the finger canyon areas on the Station located between the landfill easement and the runway, such use to be documented under a separate agreement. Grantee shall relocate all roads, fences, and utilities to Government's specifications as established by the Public Works Officer of the Station.

i. Install and maintain a:

(1) Gate, at a location mutually acceptable to Station and Grantee, to facilitate the transporting of wastes to the landfill for disposal. Grantee shall install and maintain a road from the gate to the nearest landfill service road.

(2) Fence on the outside boundary of the sanitary landfill; size, type and exact location of the fence, to be determined by the Public Works Officer of the Station. All roads within the sanitary landfill not utilized for access to landfill operations shall be barricaded or fenced to prevent encroachment by the public.

j. Obtain, at its own expense, all permits necessary to develop and operate a sanitary landfill on that area of the Station granted by this easement, and operate the landfill in accordance with the terms and conditions of those permits.

k. Maintain the premises and the sanitary landfill in good condition at all times and promptly make all repairs necessary to preserve the condition of the premises and continued operation and maintenance of the sanitary landfill.

l. Take all reasonable precautions to prevent fires. There shall be no burning on the sanitary landfill. In the event of a brush fire south of the Station's runways in West Miramar, Grantee will make heavy equipment such as bulldozers and water trucks available to the senior Navy fire fighting official in charge.

m. Temporarily cease sanitary landfill operations within twenty-four (24) hours after receipt of either a verbal or written request from the Commanding Officer, Naval Air Station, Miramar advising of an operational or emergency impact interfering with Station's defense mission. Grantee shall not resume sanitary landfill operations until the Government gives written notice authorizing the resumption of such operations. Station will minimize any cessation of landfill operations and, insofar as possible, will cordon off only the immediate impact area.

n. Procure and maintain or, to extent that any work is performed on the premises by non-governmental persons or organizations, the grantee shall require such persons or organizations to procure and maintain the following minimum amounts and types of insurance covering its use of the lands described in Exhibit "C":

Bodily Injury Liability \$300,000 per person  
\$500,000 per accident

Property Damage Liability \$100,000 per occurrence

The United States of America shall be named as an additional insured on all such policies. All such policies shall specify that the insured shall have no right of subrogation against the United States for payments of any premiums or deductibles thereunder and such insurance policies shall be assumed by, be for the account of, and be at the insurers sole risk.

Procurement of insurance will not be required in the event Grantee provides evidence to the Government that it is self-insured for the minimum amounts stipulated above.

5. Grantee may:

a. Continue use of Mercury Street access as shown on Exhibit "D" until an alternate access road is designed and constructed. Once the new access road is constructed, the Mercury Street access will terminate.

6247482RP00Q77

b. Establish, in conformance with the Sanitary Landfill Master Plan, a limited administrative and maintenance area to support Grantee's landfill operations. Any proposed expansion of this area shall be submitted to the Commanding Officer, Western Division, Naval Facilities Engineering Command for his review and approval prior to any construction.

c. Operate a voluntary recycling center in the administrative area during the hours the landfill is open to the public.

d. Excavate dirt from the area covered by this easement for the purpose of providing the final topsoil cover for the North Miramar sanitary landfill.

6. Additional specifications relative to landfill operations, maintenance, and environmental considerations are set forth in Attachment One to Land Exchange Agreement N6247482RP00V23 dated 14 June, 1982.

7. All work in connection with the construction, installation, operation, repair, and replacement of the sanitary landfill shall be done without cost or expense to the Government, except as provided herein, in accordance with plans previously approved by the Commanding Officer of the Western Division, Naval Facilities Engineering Command.

8. Grantee recognizes the increased potential hazards to flight operations at the Station resulting from the presence of sea gulls on the sanitary landfill premises particularly during the months of November through February. Landfill operations may be conducted during these months provided the methods employed by Grantee to eliminate the sea gull hazard are satisfactory to the Commanding Officer of the Station.

9. Grantee releases, remises, and forever discharges the United States of America, its officers, agents, and employees of and from any and all causes of action, trespasses, injuries, damages, and demands whatsoever in law or in equity arising out of or connected with Grantee's use and operation of the sanitary landfill authorized hereby, excepting any such causes of action, trespasses, injuries, damages, or demands caused by the negligent or intentional acts or omissions of the United States of America, its officers, agents or employees.

To the extent that any work is performed on the premises by non-governmental persons or organizations the grantee shall require such persons or organizations to:

a. Pay the United States the full value for all damages to lands or other property of the United States caused by him or his employees, contractors, or employees of the contractors, and

b. Indemnify, save and hold harmless and defend the United States against all fines, claims, damages, law suits, judgments and expenses arising out of or from any omission or activity in connection with activities under this easement.

10. Grantee's exercise of its rights hereunder shall at all times be subject to such reasonable rules and regulations as may be prescribed by the Government to prevent interference with Government activities at the Station.

11. In the event sanitary landfill capacity remains at the end of the term of this easement, Grantee may, at its option, by written notification to the Contracting Officer, at least six (6) months prior to the expiration of the easement, extend the term of this easement for two additional periods of five years each. In consideration for the extension of the term, Grantee shall continue the waiver of landfill disposal fees as described in paragraph 1 above. Upon the expiration of this easement Grantee shall remove itself and its property from the premises and surrender the possession thereof to the Government. In the event the Government shall terminate this easement, Grantee shall be allowed reasonable time, as determined by the Commanding Officer of the Station, but in no event less than sixty (60) days from receipt of notice of termination, in which to remove all its property from and terminate its operations on the premises. During such period prior to surrender, all obligations assumed by Grantee shall remain in full force and effect.

12. Before the expiration or prior termination of this easement, Grantee shall take all necessary action to leave the premises in a clean and orderly condition. All slopes shall be dressed, property drainage provided, and fences removed to the satisfaction of the Commanding Officer of the Station. In the event the Government shall terminate this easement, Grantee shall have a minimum of sixty (60) days from the receipt of the notice of termination to accomplish these actions.

13. During the term of this easement, Grantee shall have the right, at its own expense, to install such machinery or equipment, make such minor improvements and additions, and to attach such removable fixtures in or upon the premises as may be required for its use of the premises as a sanitary landfill; and to remove same at any time prior to the expiration or termination of this easement. In the event of termination of this easement by the Government, Grantee may remove such items within sixty (60) days from the receipt of the notice of termination. All property not removed shall be deemed abandoned by the Grantee and may be used or disposed of by the Government in any manner whatsoever without any liability to account to Grantee therefore, but such abandonment shall in no way reduce any obligation of Grantee for restoration under paragraph 12 above.

14. This easement may be terminated by the Government at any time prior to the term hereof or any extended term:

a. Upon the failure by the Grantee to comply with the terms and conditions of this easement; or

b. Upon abandonment of the rights herein, or nonuse of such rights for two consecutive years.

The Government recognizes the importance of the sanitary landfill to the health, safety, and welfare of the citizens of San Diego, and will exercise this section only for good and significant cause and after reasonable time for Grantee to correct any deficiencies in operations.

15. The Commanding Officer, Western Division, Naval Facilities Engineering Command, has designated the Director of the Real Estate Division to act as

Contracting Officer. All correspondence concerning this easement shall be directed to:

Director, Real Estate Division (Code 24)  
 Western Division, Naval Facilities Engineering Command  
 P.O. Box 727  
 San Bruno, California 94066

Government shall notify Grantee in writing of any change in the designated Contracting Officer and/or his address.

16. Notices to be given by the Government to the Grantee may be personally served upon Grantee by serving the City Manager, or any person hereafter authorized in writing to receive such notice, or may be served by certified letter directed to:

City Manager  
 City of San Diego  
 202 "C" Street M99A  
 San Diego, California 92101

Grantee shall notify Government in writing of any change in the Grantee's designated representative and/or address.

IN WITNESS WHEREOF, the Government has caused this instrument to be executed on the day and year written first above.

UNITED STATES OF AMERICA

By Warren K. Branscum

WARREN K. BRANSCUM  
 Director, Real Estate Division  
 Western Division  
 Naval Facilities Engineering Command  
 For and on behalf of the United States  
 of America, Department of the Navy

IN WITNESS WHEREOF, this Grant of Easement is accepted by the City of San Diego acting through its City Manager pursuant to Resolution No. dated authorizing such acceptance.

The City of San Diego

By J.P. Tarter

City Manager